

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LIJUNG EDWARDS-YU,

Plaintiff,

v.

LOUIS DEJOY,

Defendant.

Case No. C21-156-RSM-MLP

ORDER DEFERRING RULING ON
DEFENDANT’S MOTION FOR COSTS

This matter comes before the Court on Defendant Louis DeJoy’s Motion for Costs. Dkt. #57.

On February 8, 2021, Plaintiff Lijung Edwards-Yu, a former employee of the United States Postal Service (“USPS”), brought this action against Defendant Louis DeJoy, Postmaster General of the USPS. Dkt. #1. In her Second Amended Complaint, Plaintiff alleged causes of action under: (1) Title VII of the Civil Rights Act of 1964 for disparate treatment based on race, gender, and national origin; hostile work environment; and retaliation; (2) the Rehabilitation Act of 1973 for failure to accommodate disability and disparate treatment; and (3) the Age Discrimination and Employment Act for hostile work environment, retaliation and disparate treatment. Dkt. #44 ¶¶ 6.1–6.15. Defendant moved for summary judgment on July 11, 2022. Dkt. #27. On October 4, 2022, Magistrate Judge Michelle L. Peterson issued a Report and

1 Recommendation (“R&R”) recommending Defendant’s motion for summary judgment be
2 granted and that Plaintiff’s Second Amended Complaint and this action be dismissed. Dkt. #51.
3 On November 8, 2022, this Court adopted Judge Peterson’s R&R and this action was dismissed.
4 Dkt. #55. Plaintiff has since appealed the R&R (Dkt. #51), the Court’s Order adopting the R&R
5 Dkt. #55), and the Court’s judgment dismissing Plaintiff’s complaint and this action with
6 prejudice (Dkt. #56). Dkt. #59.

8 Defendant, as the prevailing party, now moves for costs associated with depositions taken
9 in the case. Dkt. #57. He requests an award of \$8,436.14. *Id*; see also Dkt. #57-1. Plaintiff
10 opposes the motion, arguing that the Court should deny the motion or defer ruling until her appeal
11 is resolved. Dkt. #61.

13 Federal Rule of Civil Procedure 54(d)(1) allows for costs to be awarded to the
14 prevailing party. “Rule 54(d) creates a presumption in favor of awarding costs to prevailing
15 parties, and it is incumbent upon the losing party to demonstrate why the costs should not be
16 awarded.” *Stanley v. Univ. of S. Cal.*, 178 F.3d 1069, 1079 (9th Cir. 1999) (internal citation
17 omitted). While there is a presumption in favor of awarding costs to the prevailing party, Rule
18 54(d) vests in the district court discretion to do so. *Assoc. of Mexican-American Educators v.*
19 *State of Cal.*, 231 F.3d 572, 591–92 (9th Cir. 2000). Plaintiff argues, and the Court agrees, that
20 Defendant’s motion for costs should be deferred pending appeal. While the Court adopted Judge
21 Peterson’s R&R recommending the Court grant Defendant’s motion for summary judgment and
22 dismiss this case with prejudice, the Ninth Circuit may reach a different conclusion. Deferring
23 ruling on Defendant’s motion for costs is in the best interest of judicial economy—should
24 Plaintiff prevail on their appeal, Defendant’s motion will be moot.

1 Therefore, the Court **DEFERS RULING** on Defendant's Motion for Costs, Dkt. #57,
2 pending appeal. The parties shall submit a status report within 14 days of the resolution of the
3 appeal.

4 **IT IS SO ORDERED.**

5 DATED this 14th day of December, 2022.
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10 RICARDO S. MARTINEZ
11 UNITED STATES DISTRICT JUDGE
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